

## SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

### PART 3413—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

#### Subpart 3413.1—General

##### 3413.107 Solicitation and evaluation of quotations.

(a)–(c) [Reserved]

(d) *Information provided by ED.* If ED provides information to a potential quoter concerning a request for quotations, that information must also be provided to all other potential quoters, by amending the request, if—

(1) The information is necessary to quoters in submitting quotations; or

(2) The lack of the information would be otherwise prejudicial to other potential quoters.

(e) *Late quotations.* The procedures in FAR 15.412 must be used for quotations received after the time specified for receipt at the contracting activity, except that late quotations may be accepted if the contracting officer determines in writing prior to the award that it is in the best interest of the Government to do so.

[53 FR 19121, May 26, 1988]

### PART 3414—SEALED BIDDING

#### Subpart 3414.4—Opening of Bids and Award of Contract

Sec.

3414.406 Mistakes in bids.

3414.406-3 Other mistakes disclosed before award.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

#### Subpart 3414.4—Opening of Bids and Award of Contract

##### 3414.406 Mistakes in bids.

##### 3414.406-3 Other mistakes disclosed before award.

(a)–(d) [Reserved]

(e) Authority is delegated to the HCA to make determinations under FAR 14.406-3 (a) through (d).

[53 FR 19121, May 26, 1988]

### PART 3415—CONTRACTING BY NEGOTIATION

#### Subpart 3415.4—Solicitation and Receipt of Proposals and Quotations

Sec.

3415.406-3 Part II—Contract clauses.

3415.407 Solicitation provisions.

3415.413-2 Alternate II.

#### Subpart 3415.5—Unsolicited Proposals

3415.505 Content of unsolicited proposals.

3415.506 Agency procedures.

#### Subpart 3415.9—Profit

3415.902 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 53 FR 19121, May 26, 1988, unless otherwise noted.

#### Subpart 3415.4—Solicitation and Receipt of Proposals and Quotations

##### 3415.406-3 Part II—Contract clauses.

The contracting officer shall insert the clause in 3452.215-33, Order of Precedence, in all contracts other than purchase orders. The contracting officer shall use this clause in lieu of the clause in FAR 52.215-33.

##### 3415.407 Solicitation provisions.

(a) The Freedom of Information Act (FOIA), 5 U.S.C. 552, may require ED to release data contained in an offeror's proposal even if the offeror has identified the data as restricted in accordance with the provision in FAR 52.215-12. The solicitation provision in 3452.215-70, Release of Restricted Data, informs offerors that ED is required to consider release of restricted data under FOIA and Executive Order 12600.

(b) The contracting officer shall insert the provision in 3452.215-70, in all solicitations that include a reference

## **3415.413-2**

to FAR 52.215-12, Restriction on Disclosure and Use of Data.

### **3415.413-2 Alternate II.**

The Department uses the Alternate II procedures in FAR 15.413-2.

### **Subpart 3415.5—Unsolicited Proposals**

#### **3415.505 Content of unsolicited proposals.**

(a)–(c) [Reserved]

(d) Each unsolicited proposal must contain the following certification:

UNSOLICITED PROPOSAL CERTIFICATION BY  
OFFEROR

This is to certify, to the best of my knowledge and belief, that:

a. This proposal has not been prepared under Government supervision.

b. The methods and approaches stated in the proposal were developed by this offeror.

c. Any contact with employees of the Department of Education has been within the limits of appropriate advance guidance set forth in FAR 15.504.

d. No prior commitments were received from departmental employees regarding acceptance of this proposal.

Date: \_\_\_\_\_

Organization: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(This certification must be signed by a responsible person authorized to enter into contracts on behalf of the organization)

#### **3415.506 Agency procedures.**

(a) [Reserved]

(b)(1) The HCA is the contact point to coordinate the receipt and handling of unsolicited proposals.

(2) Offerors shall direct unsolicited proposals to the HCA.

### **Subpart 3415.9—Profit**

#### **3415.902 Policy.**

(a) [Reserved]

(b) The contracting officer shall establish the profit or fee portion of the Government prenegotiation objective in accordance with 48 CFR chapter 3, part 315, subpart 315.9 (Department of Health and Human Services Acquisition Regulation).

## **48 CFR Ch. 34 (10-1-10 Edition)**

## **PART 3416—TYPES OF CONTRACTS**

### **Subpart 3416.3—Cost-Reimbursement Contracts**

Sec.

3416.303 Cost-sharing contracts.

3416.307 Contract clauses.

### **Subpart 3416.6—Time-and-Materials, Labor-Hour and Letter Contracts**

3416.603 Letter contracts.

3416.603-3 Limitations.

### **Subpart 3416.7—Agreements**

3416.701 Contract clause.

3416.702 Basic agreements.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 53 FR 19121, May 26, 1988, unless otherwise noted.

### **Subpart 3416.3—Cost-Reimbursement Contracts**

#### **3416.303 Cost-sharing contracts.**

(a) [Reserved]

(b) *Application.* Costs that are not reimbursed under a cost-sharing contract may not be charged to the Government under any other grant, contract, cooperative agreement, or other arrangement.

#### **3416.307 Contract clauses.**

(a) If the clause in FAR 52.216-7, Allowable cost and Payment, is used in a contract with a hospital, the contracting officer shall modify the clause by deleting the words “subpart 31.2 of the Federal Acquisition Regulation (FAR)” from paragraph (a) and substituting “34 CFR part 74, appendix E.”

(b) The contracting officer shall insert the clause in 3452.216-70, Additional Cost Principles, in all solicitations of and resultant cost-reimbursement contracts with nonprofit organizations other than educational institutional, hospitals, or organizations listed in Attachment C to Office of Management and Budget Circular A-122.